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Climate: The EPA Begins the Process of Regulating Greenhouse Gases

Posted by **BRYAN WALSH** Thursday, December 23, 2010 at 2:46 pm

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Peter Andrews / Reuters

With the failure of carbon cap-and-trade legislation this year, and a passel of Republicans taking over the House **who seem to doubt** that global warming exists, Congress has become a dead-end for fighting greenhouse gas emissions. But the Supreme Court has given the Environmental Protection Agency (EPA) **the power to regulate** greenhouse gases as a pollutant under the Clean Air Act, and now—with some prodding from green groups—the agency is gearing up to do just that. Today the EPA **announced that it would issue** what it calls "modest" sets of performance standards for two major emitting sectors—power plants and refineries—which are together responsible for just under 40% of the country's total greenhouse gas emissions. The rules for power plants have to be proposed by July 2011 and finalized by May 2012, while standards for refineries need to be released by December 2011 and finalized by November 2012.

Those two sectors were chosen in part because they offer a relatively small number of facilities that emit a lot of greenhouse gases, which should make formulating and implementing those regulations somewhat easier than with smaller sources. As EPA air chief Gina McCarthy told reporters today:

In refineries and power plants, we have large amounts of emissions, we have significant opportunities for cost-effective reductions, and we have relatively few sources to have to regulate. So it was [EPA Administrator Lisa Jackson's] decision that in 2011 this would be the focus of EPA's attention.

As McCarthy took great pains to explain, this was just the start of a process that will likely take years. Nor is it meant to be a replacement for a carbon cap. "This is not a cap program," McCarthy said. "It's an emissions standard."

That means that unlike a carbon cap, there's no intent here to try to ensure that carbon emissions for, say, the electricity sector are reduced to a certain safer level. Rather, it will be a regulatory standard—similar to the EPA's standards for traditional air pollutants like sulfur dioxide—that will attempt to push facilities to use the best available technology to reduce greenhouse gas emissions, while balancing the environmental benefit with the economic cost. "This is about taking a look at what technologies are available that can cost-effectively achieve reductions in greenhouse gas emissions," said McCarthy. "It's a sector approach and it will be applied to each facility."

These regulations, which will cover all facilities both new and old, won't be the only arrow

in the EPA's quiver. Beginning January 2, the agency will also require all new facilities, or plants being expanded or upgraded, to obtain permits for emitting greenhouse gases and follow guidelines for how to control those emissions, through a regulation called New Source Performance Standards. Though the EPA has said that states and industry will have a wide latitude to interpret those rules and carry them out, it will represent the first shot the agency has taken in truly regulating greenhouse gas emissions. And it will be controversial—Texas is **all but refusing** to carry out permitting for new plants, forcing the EPA to take over the process.

Indeed, while the EPA has characterized its actions as "modest," opponents in industry and among Republicans haven't taken it that way. Fred Upton, the Michigan Republican who will be taking over the powerful Energy and Commerce Committee in the House, decried the **regulations in a statement**:

Today's announcement marks a crescendo in the EPA's long regulatory assault against America's energy producers. The EPA has its foot firmly on the throat of our economic recovery. We will not allow the administration to regulate what they have been unable to legislate - this Christmas surprise is nothing short of a backdoor attempt to implement their failed job-killing cap-and-trade scheme.

Expect Republicans to attack the EPA over greenhouse gas regulations—they've already said, half-seriously, that Jackson will be called to testify on Capitol Hill so often that she should think about **getting a parking space**. There's a coming regulatory war over carbon emissions and air pollution, one that could shift the way the U.S. produces electricity, away from coal and toward cleaner sources like natural gas—and there's little evidence that conservative are willing to back down. But it looks like the EPA and the White House are ready to fight as well, and after a year when environmentalists saw most of their legislative hopes dashed, that's a **bit of good news** just in time for the holidays.

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